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09/751,576

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Lok Yan Leung

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EXAMINER

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2134

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/751,576
Filing Date: December 29, 2000
Appellant(s): LEUNG ET AL.

Gerald H. Glanzman
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 27 May 2005.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

The brief does not contain a statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief. Therefore, it is presumed that there are none. The Board, however, may exercise its discretion to require an explicit statement as to the existence of any related appeals and interferences.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

No amendment after final has been filed.

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

The rejection of claims 1, 2, 4-21, and 23-32 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 41.287.

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

5,940,507	Cane et al.	8-1999
6,167,518	Padgett et al.	12-2000

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 4-21, and 23-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cane et al., US Patent number 5,940,507 in view of Padgett et al., US Patent number 6,167,518.

With regard to claims 1, 2, 5, 12, 20, 21, 24, and 32, Cane discloses a method for managing access to data in a processing system (column 1 lines 17-19) including, receiving a request for first key encrypted data, encrypted key 24 (column 3 lines 59-61), which is later written to magnetic tape as encrypted key 38 (column 4 lines 16-23), determining whether the requestor is trusted, decrypting a copy of the data (copied to tape drive, column 4 lines 17-19) with a second key (column 4 lines 23-26, the one used for further encryption) and sending the decrypted data (column 4 lines 27-32). Cane discloses using additional security, specifically authentication (column 2 lines 32-33),

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but does not specifically mention identifying the client by checking his identity against a database. Padgett discloses that a key store can be public, as in Cane, but can also be restricted through authentication (column 3 lines 9-15). Cane states that his invention could have added security, and authentication, as taught by Padgett, is a well-known and obvious method of adding security. It would have been obvious for one of ordinary skill in the art to authenticate the client in Cane, for Cane's stated motivation of adding additional security.

With regard to claims 4 and 23, Cane discloses that one of the data items is a key, decrypted by the server key (column 4 lines 16-26).

With regard to claims 6, 7, 13, 14, 25, and 26, Cane discloses the data is indexed (column 4 lines 37-41).

With regard to claims 8-10 and 27-29, Cane discloses items added to the archive are encrypted (column 3 lines 45-59).

With regard to claims 11, 30, and 31, Cane discloses sending the key with the data (column 4 lines 29-31).

With regard to claims 15-19, the examiner takes official notice that processing systems frequently have multiple busses and processors and Ethernet adapters. Cane discloses a processing system, but does not discuss the processors, busses or adapters. It would have been obvious for one of ordinary skill in the art to use Cane's secure archiving in any such system for the disclosed motivation of securing privacy of data (column 2 lines 11-14). In support of examiner's official notice, a system with

multiple buses, processors, and Ethernet adapters is disclosed by Toutant, USPN 6,006,300 (column 5 lines 17-32).

(11) Response to Argument

Applicant's arguments have been considered but they are not persuasive. Pages 29 and 30 of the arguments are duplicate pages. The actual page 30 has not been received and thus it has not been considered in this response.

With regard to applicant's argument that, "the encrypted file in Cane is not a copy of an item of data wherein the original item is encrypted using a first key and the copy is encrypted with a second key", the examiner points to columns 3-4 of Cane. Cane clearly discloses that an item of data (secondary key) is encrypted (with a master key, column 3 lines 59-61). This encrypted key is then copied and further encrypted (column 4 lines 16-26) as outlined above. When requested the copy is then decrypted from the additional layer of security encryption, in order to return the item to the requestor. The examiner agrees that the item of data is still encrypted, but it is also clearly decrypted as well (from the additional encryption).

With regard to applicant's argument that no motivation was given to combine Cane and Padgett, the examiner points to page 2 of the final action. The examiner gave the motivation that, "It would have been obvious for one of ordinary skill in the art to authenticate the client in Cane, for Cane's stated motivation of adding additional security". As the examiner mentioned, Cane discloses that it additional authentication and security measures can be taken (column 2 lines 32-33). Checking a user against a database, as in Padgett, is both well known and an obvious measure of additional

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authentication. The examiner also points to the definition of authentication, as defined by The Microsoft Press Computer Dictionary 3rd edition, "In a multi-user or network OS, the process by which the system validates a user's logon information. A user's name and password are compared against an authorized list". This clearly states that the additional authentication measures that Cane discloses would include checking the requestor's identity against a database.

With regard to applicant's argument that Cane does not disclose decrypting a copy of the file with a second key, the examiner points again to column 4 lines 23-26. The further encryption operation is performed with a second key, and is decrypted with this key in order to send it back to the requestor. This clearly outlines the claimed limitation, "decrypting a copy of the item of data using a second key".

With regard to applicant's argument that, determining whether the requestor is a trusted requestor who is authorized to have access to the stored data, is different than verifying that a requestor is trusted, the examiner disagrees. In a system that grants access to stored data, the reason to verify that a requestor is trusted is to determine whether he is trusted to have the access.

With regard to applicant's argument, regarding claims 4 and 23, that Cane does not teach the item of data being another key, the examiner points out that the item is an encrypted key (column 4 lines 16-26). This encrypted key is neither the key used by the server nor the master key.

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With regard to applicant's argument that the item is indexed with an alias, the examiner points out that point of an index is to use aliases to locate larger pieces of data.

With regard to claim 11, applicant seems to argue this claim, but page 30 is missing as noted above. The examiner points out that the claim is vague and the art reads on it in several interpretations. One such reading is a requestor requests an encrypted item of data (encrypted file 32) and is sent a second key (encrypted key 38) and an encrypted copy of the item of data (column 4 lines 16-26).

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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August 25, 2005

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